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ABSTRACT

This paper outlines key elements of the Americans with Disabilities Act (ADA) as the ADA pertains to businesses, public accommodations, transportation, and telecommunications. Implications of the legislation for postsecondary education institutions are then explored. The paper indicates that the ADA demands virtually the same standards for compliance in the employment area as Sections 503 and 504 of the Rehabilitation Act of 1973. Implications include renewed attention to disability access to facilities and programs, and increased use of campus facilities and programs by individuals with disabilities as transportation access improves. Differences between Section 504 and the ADA are analyzed, focusing on requirements for physical access in new construction or major renovations. Four publications on postsecondary education compliance with Section 504 and the ADA are described. Several government agencies and publications offering assistance on ADA requirements are listed. (JDD)

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AMERICANS WITH DISABILITIES ACT

The Americans with Disabilities Act (ADA), signed into law by President Bush on July 26, 1990, has been called one of the country's most important pieces of legislation. Others have described it as the most far-reaching civil rights legislation since the Civil Rights Act of 1964, and an "emancipation proclamation" for people with disabilities in America. **The ADA prohibits discrimination against people with disabilities in the areas of private employment, public accommodations and services, transportation, and telecommunications.**

Regulations implementing ADA are expected to be issued in the next few months. The following are the key elements of ADA, as the law pertains to:

Businesses

- becomes effective within two years of enactment
- covers businesses employing 25 or more persons (in 1992) and those employing 15 or more persons (1994)
- protects applicants and employees who are "qualified individuals with a disability"
- requires covered employers to make "reasonable accommodations" (but excludes such accommodations which would impose "undue hardship")

Public Accommodations and Transportation

- becomes effective within eighteen months of enactment
- covers private entities which provide public services and accommodations, such as hotels, restaurants, bars, theaters, stadiums, convention centers, grocery stores, shopping centers, museums, libraries, parks and schools
- covers private entities engaged in transporting people and whose operations affect commerce
- requires that such private entities make reasonable accommodations, provide auxiliary assistance, and remove architectural barriers so that individuals with disabilities can use the public accommodations and transportation services

Telecommunications

- becomes effective within three years of enactment
- covers common carriers engaged in interstate communication by wire or radio
- requires that such common carriers must provide telecommunications relay services to facilitate communications (between deaf and/or speech impaired individuals and others)

ADA and Postsecondary Education Institutions

What does this new legislation mean for colleges, universities, and other postsecondary training entities who have been subject to similar disability discrimination prohibitions for over 15 years? Indeed, the ADA borrows much of its substantive framework from Section 504 of the Rehabilitation Act of 1973. Regulations implementing Section 504 (issued in 1977) and the Civil Rights Restoration Act of 1988 have required that recipients of federal funds (including colleges and universities) review policies and procedures, facilities, and programs to be sure that qualified individuals cannot be excluded from participation in campus programs solely because of their disability. The ADA demands virtually the same standards for compliance in the employment area as mandated by the Rehabilitation Act and 503/504 Regulations.

Most campuses have been complying with the spirit and the letter of these laws. Evidence of such compliance is the fact that The National Center for Education Statistics reports that 10.5 percent of students enrolled at all levels of postsecondary education have one or more handicapping conditions.

The Americans with Disabilities Act will mean the following for postsecondary educational institutions:

- Renewed attention will be focused on disability access to facilities and programs as well as employment and promotion issues. Contact your Regional Office for Civil Rights for copies of brochures outlining the rights of individuals with handicaps, students with hidden disabilities, and nondiscrimination in employment practices in education under federal law (Sections 503 and 504).
- Campus disability service directors or coordinators, having had several years of experience facilitating disability access, may be prime resources for local business and public accommodations community as they implement compliance with ADA. Campus staff who work effectively with community leaders will improve "town-gown" relationships.

The information in this paper is reprinted from articles appearing in **INFORMATION from HEATH** from 1990-1993

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- Increased access to employment, public accommodations, transportation, and telecommunications will expand opportunities for students with disabilities.
- The expanded pool of qualified college educated disabled workers will assist in alleviating the anticipated manpower shortages in the next decade.
- Improved access by private business and public transportation entities in areas surrounding the campus will increase use of campus educational, recreational, and cultural facilities and programs, possibly generating new income and increased enrollment.
- Increasing the number of qualified students with disabilities, and providing them with necessary accommodations so they can succeed, will enhance the cultural diversity for which many campuses strive.

Resources

For a copy of the law and additional information on ADA, contact the office of your U.S. Congressional Representative, public libraries, or disability advocacy organizations.

To assist campuses in meeting federal guidelines (Section 503 and 504) and eliminate discrimination against qualified individuals with disabilities, request from HEATH the (free) **Resource Directory**, which includes contact information about the Regional Offices for Civil Rights and a **HEATH Publications List**.

To assist potential employers, request **Design Guidelines Qualifying for the Tax Advantages of Section 190**, free from the Paralyzed Veterans of America, 801 Eighteenth Street, NW, Washington, DC 20006.

To assist on mass transportation issues, request **Access to Mass Transit for Blind and Visually Impaired Travelers**, which includes an extensive bibliography, available for $25.45 from American Foundation for the Blind, inc., 15 West 16th Street, New York, NY 10011.

For more information about specific requirements, contact the following:

Employment

Equal Employment Opportunity Commission
1801 L Street, NW
Washington, DC 20507
(800) 669-3362 (Voice)
(800) 800-3302 (TDD)

Transportation

Department of Transportation
400 Seventh Street, SW
Washington, DC 20590
(202) 366-9305 (Voice)
(202) 755-7687 (TDD)

Public Accommodations

Architectural and Transportation Barriers Compliance Board
1111 18th Street, NW
Suite 501
Washington, DC 20036
(800) USA-ABLE (Voice/TDD)

Telecommunications

Federal Communications Commission
1919 M Street, NW
Washington, DC 20554
(202) 634-1837 (voice)
(202) 632-1836 (TDD)

All documents available from these agencies are available in alternate formats: braille, large print, audiotape, computer disk, and electronic bulletin board. To obtain materials in any of these formats, call (202) 514-6193.

Other ADA Resources

Removing the Barriers: Accessibility Guidelines and Specifications (1991) has just been published by the The Association of Higher Education Facilities Officers (APPA) to help colleges and universities comply with the new Americans with Disabilities Act. The book's 127 pages and 105 illustrations offer detailed information on site accessibility, building entrances, doors, interior circulation, restrooms and bathing facilities, drinking fountains, special spaces, and equipment. A comprehensive facilities inventory and evaluation checklist is included, as are additional resources, a glossary, and an index. The book costs $45 for APPA members, $55 for all others; everyone must add $8 for shipping and handling. Send checks to APPA Publications, Dept. RBPR, P.O. Box 1201, Alexandria, VA 22313. (703) 684-1446.

In addition, parents of young adults with disabilities who wish to find out more about the ADA can contact Judith Raskin, Parent Information Center, P.O. Box 1422, Concord, NH 03302-1422. (603) 224-7005. The Parent Information Center, which primarily serves the Northeast, can provide information and training on the ADA, and refer parents to a Parent Information Center in their region. ■

ADA/504 AND INSTITUTIONS OF HIGHER EDUCATION

HEATH staff are frequently asked to describe the differences between Section 504 and the Americans with Disabilities Act (ADA) for colleges and universities. In January 1992, the Annual Meeting of the American Council on Education included a session on this topic presented by Dr. William Scales. The following article is based on that session and an exclusive interview with Dr. Scales, who is director of Disability Support Services at the University of Maryland College Park, and past president of the Higher Education and Disability (AHEAD).

The Americans with Disabilities Act (ADA), which became law on July 26, 1990, is a comprehensive national mandate for the elimination of discrimination against individuals with disabilities. The law contains clear prohibitions against discrimination and ensures that the federal government will play a pivotal role in enforcing these standards. The goals are the inclusion and integration into life's full range of activities for the 43 million Americans with disabilities, and an end to exclusion and segregation.

Because they receive federal funds, virtually all colleges and universities both public and private are required to comply with Section 504 of the Rehabilitation Act of 1973. These institutions are now required to comply with the ADA as well. ADA, which was modeled on the Rehabilitation Act, will not invalidate or limit the remedies, rights, or procedures of any federal, state, or local law that provides greater or equal protection.

The ADA is divided into five titles. Of these, Titles II and III are the two that most affect the physical and programmatic access of postsecondary institutions. Title II has the greatest impact on public colleges and universities, while Title III relates most to private colleges and universities.

When asked how this new legislation will affect colleges, universities and other postsecondary training entities, Scales said, "The main difference I can see between the ADA and 504 is within the area of new construction or major renovations. The requirements for physical access under the ADA are much broader and much more stringent than under 504." Scales said that whether or not they receive federal funds, all postsecondary entities that are building or renovating a major building to be occupied after January 1993 must make that building totally accessible. "Not just a percentage of the public restrooms must be accessible, but all of the restrooms, as well as all the doorways, and all the communication systems."

Postsecondary institutions can elect to use the Uniform Federal Accessibility Standards (UFAS) or the ADA Accessibility Guidelines (ADAAG). There is little difference between the two. Because ADA regulations are more recent, most institutions use them. The ADA standards are printed as an addendum to Title III and are available from the Architectural and Transportation Barriers Compliance Board. (See end of article for contact information.)

"Architects have told me that if they plan early to make a building totally accessible, the cost to do so is minimal, especially compared to the cost of retrofitting a building to meet ADAAG standards. The ADA will not affect those existing campus buildings that comply with the 504 Regulations which state that the program as a whole must be accessible, not necessarily the entire physical facility. As long as the institution makes the programming offered in the building accessible to all students, then the institution is not expected to go back and retrofit the building. If there will be a major renovation, however, the institution will have to respond to ADA," said Scales.

According to Scales, the area of *public accommodations* (covered under Title III) is somewhat confusing. If a public college or university (which is covered under Title II) allows a private entity (bowling alley, movie house, fast food restaurant, etc.) to operate within the compound of the campus, the question arises as to whether the entity would also be covered. Ordinarily, such a privately-operated public accommodation would be covered under Tide III, and would have to be retrofitted to meet ADAAG standards. But because it is on a government-funded campus, the private entity also is covered by Title II, which does not require retrofitting except during renovation or new contruction. The issue of retrofitting should be addressed in the contracts that are signed between the university and the private entity. "In general, these agencies, because they are a part of the university facilities and a part of the university offerings, will be covered under Title II," said Scales.

Another concern may arise with the term *"undue hardship"*. Under the ADA, *undue hardship* means an action requiring significant difficulty or expense, when considered in light of factors set out in the Act. Until a test case is brought to court on this issue, the undue hardship clause of ADA may be invoked as a reason not to make a particular accommodation. Colleges and universities are very familiar with 504 provisions: postsecondary institutions are required to make various accommodations. Having insufficient funds may not be an acceptable reason to refuse to make them.

The ADA will bring major changes to the lives of individuals with disabilities and their families. Colleges and universities will have to make the necessary adjustments in terms of employment and access to buildings, transportation, and telecommunications. For colleges and universities, however, making these changes will be less drastic and more subtle than for others; most institutions already comply with Section 504 requirements, many of which are the same as those in the ADA. Enforcement of the ADA, however, is expected to be more aggressive than that for Section 504 of the Rehabilitation Act.

Resources:

ADA Accessibility Guidelines (ADAAG)

Uniform Federal Accessibility Standards (UFAS)

Architectural and Transportation Barriers Compliance Board
1111 18th Street, N.W.
Suite 501
Washington, DC 20036
(800) USA-ABLE (V/TT)

Regulations, Technical Assistance, and Enforcement for Titles II and III

Civil Rights Division
Office on the Americans with Disabilities Act
U.S. Department of Justice
P.O. Box 66118
Washington, DC 20035-6118
(202) 514-0301 (Voice)
(202) 514-0383 (TT)

Americans with Disabilities Act Handbook

Equal Employment Opportunity Commission
1801 L Street, N.W.
Washington, DC 20507
(800) 669-EEOC (Voice)
(800) 800-3302 (TT)

The Americans with Disabilities Act—Implications for People with Psychiatric Disabilities is the lead article in the **Community Support Network News** (December 1991). The newsletter is a publication of the Center for Psychiatric Rehabilitation at Boston University at 730 Commonwealth Avenue, Boston, MA 02215. Contact the center for subscription information. A copy of one issue is $7.00 ■

ADA UPDATE

July 26, 1992 was the effective date by which businesses with 25 or more employees had to meet employment guidelines set forth by the Americans with Disabilities Act (ADA). Employers with 15–24 employees have until July 26, 1994 to meet these deadlines.

The ADA, signed into law in January 1990, was designed to protect the 43 million Americans with disabilities against discrimination in employment, public services, public accommodations, and telecommunications.

For colleges, universities, and any post-high school training entities, the employment provisions of ADA are expected to expand opportunities for students with disabilities who are preparing for jobs and careers. In addition, colleges must re-examine employment policies and procedures to be sure they comply with the ADA.

If employers throughout the country have not already begun to implement needed changes, the law now requires them to change hiring practices, environment and procedures, recruitment and interviewing techniques, and to refine job descriptions and make reasonable accommodations to meet the needs of qualified people with disabilities.

ADA prohibits employers from discriminating in any area of employment, including recruiting, hiring, compensating, promoting, providing benefits, or firing. Employers will no longer be able to conduct pre-employment medical screenings unless they are job related and are required of all employees. Drug screening, and pre-employment inquiries into the nature of the applicant's disability are excepted. Employers must be aware of physical barriers in their work environment, and they also must provide up-to-date, relevant job descriptions to their workers.

Employers must make accommodations to ensure access to employees and customers with disabilities. Employers may have to make changes in lounges, lunchrooms, and restrooms in order to ensure equal access to employees. However, employers do not need to make alterations if they will threaten the companies' survival or cause "undue hardship" to their business. The size and budget of the company should be considered before expensive alterations are made.

ADA also mandates that employers make reasonable accommodations for employees with disabilities if they are otherwise qualified to perform the job requirements. A qualified individual with a disability is one who can perform essential job functions with or without a reasonable accommodation. Providing reasonable accommodation may involve restructuring tasks and making training and workrelated materials accessible to people with disabilities.

Resources

Mainstream, Inc. recently received a grant from MCI Communications Corporation to develop seven regional directories of organizations that provide technical assistance on compliance with the ADA. The directories, Accessing ADA Resources, include information on local, state, and national organizations offering ADA guidance to employers and help to individuals with disabilities seeking employment.

The directories cover the Northeast, Midwest, Far West, Mountain, South, Southwest, and Mid-Atlantic regions. Each directory provides lists of individuals who can assist with ADA-related issues such as reasonable accommodations, job analysis, and accessibility surveys. Local recruiting resources for qualified applicants with disabilities are also included.

The seven directories can be obtained for $39.95, including shipping and handling, from Mainstream, Inc., 3 Bethesda Metro Center, Suite 830, Bethesda, MD 20814. (301) 654 -2400 (Voice/TT).

Additional Resources

President's Committee on Employment of People with Disabilities
1331 F Street, NW, Suite 300
Washington, DC 20004 -1107
(202) 376-6200 (Voice)
(202) 376-6205 (TT)

Job Accommodation Network
West Virginia University
Morgantown, WV 26506-6122
(800) 526-7234 (V/TT)

National Rehabilitation Information Center
8455 Colesville Road, Suite 935
Silver Spring, MD 20910
(800) 346-2742 (Voice/TT)

Equal Employment Opportunity Commission
1801 L Street, NW
Washington, DC 20507
(800) 669-EEOC (Voice)
(800) 514-0383 (TT) ■

504 / ADA NEW PUBLICATIONS

Subpart E: The Impact of Section 504 on Postsecondary Education, by Jane Jarrow, is the most recent publication released by the Association on Higher Education and Disability (AHEAD). The publication begins with an overview of Section 504 of the Rehabilitation Act of 1973. Another part of the publication, Subpart A, defines terms, general prohibitions, and the obligation of recipients of federal funding to appoint and maintain at least one person to comply with the requirements and the process of an Office for Civil Rights (OCR) investigation. Throughout the publication, Jarrow discusses issues related to admissions, financial aid, housing, academic adjustments, and more. She has done an excellent job of taking pieces of Section 504, defining them in everyday terms, and giving an example of a situation relevant to the legislation. In most cases, she cites an appropriate court case to illustrate her point. This monograph is a "user friendly" publication that would be extremely helpful to a new 504 Coordinator/disability support service provider, or individuals needing documentation (court cases, examples, etc.) to support necessary changes on their campus. Seasoned disability advocates as well can benefit from the clear documentation of various issues. Although every situation is unique, the monograph tries to include situations that could be common to many institutions. Readers responsible for 504 compliance, students with disabilities seeking appropriate accommodations, and anyone seeking knowledge about outcomes of 504 compliance court cases will find this publication exciting to read.

The monograph ends with commonly asked questions and a glossary of terms. **Subpart E** is available for $20 to members of AHEAD and for $35 to non-members from the Association on Higher Education and Disability, P.O. Box 21192, Columbus, OH 43221 -0192; (614) 488-4972 (V/TT).

Title By Title: The ADA and Its Impact on Postsecondary Education, by Jane E. Jarrow (1992) is one of the few publications that relates the Americans with Disabilities Act (ADA) specifically to colleges and universities. Jarrow begins with a quick review of the 1973 Rehabilitation Act's Sections 503 and 504, which are the foundation upon which the ADA was based, and she provides a thorough overview of all five Titles of the Americans with Disabilities Act. The author also clearly defines disability and identifies who is and who is not covered by the ADA. The monograph is divided into three parts: Titles I, II, and III. Jarrow describes the major focus of each Title and how each relates to colleges and universities. In addition, within each Title, the author includes several examples of actual campus situations to give the reader a sense of how these situations could be handled appropriately. This monograph is available for $20 to members of AHEAD and for $35 to nonmembers from the Association on Higher Education and Disability (AHEAD), P.O. Box 21192, Columbus, OH 43221. (614) 488-4972 (V/TT).

How Libraries Must Comply with the Americans with Disabilities Act (ADA) (1992, Oryx Press), compiled and edited by Donald Foos and Nancy Pack, is a 150-page book that supplies administrators of public, academic, school, and special libraries with information and strategies to make services and materials accessible to all individuals. **How Libraries Must Comply** provides an overview of applicable sections of the law itself and answers many specific questions regarding the ADA's effect on libraries. The editors of the book authored two of the six chapters themselves, and the remaining chapters were written by four specialists in the field of library science.

The first essay briefly outlines the historic significance of the ADA and then discusses in detail the first three titles—Title I (Employment), Title II (Public Services), and Title III (Public Accommodations and Services Provided by Private Entities). Concepts are explained, such as "reasonable accommodations in employment," elements of discrimination specifically prohibited by Title I; the obligation of libraries to provide necessary auxiliary aids and services, including large print, taped, and Braille reading materials; the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG); and the role of the library in the self-evaluation process.

In "Planning to Implement the ADA in the Library," the author offers a model for planning that can be used in any library and alerts the reader to two recurrent themes essential to this planning model: 1) it is critical to listen to consumers with disabilities during the planning process, as well as afterwards, and 2) many resources are available to help library planners assess their needs, develop a plan for achieving their goals, and access support services to facilitate achievement of the goals. An extensive resource list of organizations and publications are included.

Another author points out that while access to the school library media center for students and staff were covered by previous legislation, the ADA newly affects the use of the library for public events, such as graduation ceremonies and PTA meetings. In these situations, the library must provide necessary auxiliary aids and services to all in attendance. An indirect effect of the ADA, believes that author, is increased awareness in the school community about the rights of individuals with disabilities.

How Libraries Must Comply also provides the reader with guidelines to help understand the complexity of what is and is not required by the ADA and includes case studies and exercises to illustrate the ADA and its application. Four appendices provide specific information on the ADA itself and information on other disability legislation. **How Libraries Must Comply with the Americans with Disabilities Act (ADA)** is available for $29.95 from Oryx Press, 4041 North Central Avenue, Suite 700, Phoenix, AZ 85012-3397. (602) 265-2651.

ADA: Audit, Transition Plan, and Policy Statement for Higher Education is a two-part publication of The Association of Community College Trustees and the American Association of Community Colleges. It was developed to help community colleges comply with the ADA. The publication begins with a brief Introduction which explains several specific rules and deadlines for public colleges and universities. This is one of the few publications that discusses the similarities and differences of the ADA and the Rehabilitation Act. The authors of this book use clear language to explain who should be included on the ADA Task Force and what the role of each person should be. The publication addresses how to accommodate students with disabilities in both academic and student affairs, and contains an extensive checklist of resources to assist the administrator on campus. The resources include both official guidance (established by the federal government) and unofficial guidance (provided by reputable organizations). The chapter that explains the development of Transition Plans makes the entire process appear "user friendly." **ADA: Audit, Transition Plan, and Policy Statement for Higher Education** can be ordered from AACC Publications, P.O. Box 1737, Salisbury, MD 21802. (410) 546-0391. Call for pricing information. ■